

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

RICHARD POLLICK,
an individual,

Plaintiff,
v.
KIMBERLY-CLARK CORPORATION,
a Delaware corporation,

Case No.:
Hon.
**COMPLAINT AND DEMAND
FOR JURY TRIAL**

DAVID GENTILE (P62171)
AIDENBAUM SCHLOFF AND BLOOM PLLC
Attorney for Plaintiff
6960 Orchard Lake Road, Suite 250
West Bloomfield, MI 48322
(248) 865-6500

Richard Pollick ("Plaintiff") complains as follows against Kimberly-Clark Corporation ("Defendant") on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

PARTIES

2. Plaintiff is, and has been at all times relevant to this lawsuit, an individual who resides in Saginaw, Michigan.

3. Defendant is, and has been at all times relevant to this lawsuit, a Delaware corporation.
4. Defendant is, and has been at all times relevant to this lawsuit, the owner of Huggies® “Jeans Diapers” product.
5. Defendant re-printed Plaintiff’s Diaper Jeans artwork (the “Artwork”), attached hereto as Exhibit 1, on product packaging while utilizing the Artwork in marketing campaigns (the “Infringement”), attached hereto as Exhibit 2.

JURISDICTION

6. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).
7. Plaintiff is the owner of the copyrighted Artwork.
8. On or about February 13, 1981, Plaintiff obtained a copyright registration for the Artwork that depicts a diaper in blue or white, each with red-colored stitching represented thereon.
9. At all times relevant to this lawsuit, the Defendant has depicted and depicts the original Artwork as its Huggies® “Jeans Diapers” product.
10. The Defendant willfully copied, on an unauthorized basis, the Artwork from Plaintiff.
11. At all times relevant to this lawsuit, the Defendant knew that the Artwork was originally created by Plaintiff.

12. At all times relevant to this lawsuit, the Defendant knew that the Infringement was and is of specific interest to Plaintiff.
13. At all times relevant to this lawsuit, the Infringement, as publically displayed on packaging and marketing materials was and is accessible in Michigan.
14. At all times relevant to this lawsuit, the Infringement occurred and continues to occur in Michigan.

VENUE

15. The United States District Court for the Eastern District of Michigan is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Michigan.
16. The United States District Court for the Eastern District of Michigan is an appropriate venue, pursuant to 28 U.S.C. § 1391(c), because Defendant is subject to personal jurisdiction in Michigan.
17. The United States District Court for the Eastern District of Michigan is an appropriate venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendant is subject to personal jurisdiction in Michigan.

FACTS

18. The Artwork constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(5).
19. Plaintiff is the owner of the copyright relating to the Artwork.

20. On July 20, 1981, the United States Copyright Office received Plaintiff's official submittal for the registration to the Artwork, including the application, the deposit copy, and the registration fee (the "Complete Application"), and Plaintiff received a Certificate of Copyright Registration on or about February 13, 1981, attached hereto as Exhibit 3.

21. In October of 1981, Plaintiff submitted a copy of the Artwork to the Defendant.

See Affidavit of Richard Pollick, attached hereto as Exhibit 4.

22. Defendant acknowledged Plaintiff's submission by mailing to him, via first-class mail, a copy of its "Policy for Reviewing Patent Applications" and a copy of its "Policy for Reviewing Unsolicited Ideas," copies of which correspondence is attached hereto as Exhibit 5.

23. The Defendant displayed, and continues to display, the Infringement on packaging and marketing materials.

24. The Defendant did not seek permission from Plaintiff, in any manner, to reproduce, display, or otherwise exploit the Artwork.

25. The Defendant was not granted permission from Plaintiff, in any manner, to reproduce, display, or otherwise exploit the Artwork.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

26. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 26 above.

27. Plaintiff holds the exclusive right to reproduce the Artwork, pursuant to 17 U.S.C. § 106(1).

28. Plaintiff holds the exclusive right to prepare derivative works based upon the Work, pursuant to 17 U.S.C. § 106(2).
29. Plaintiff holds the exclusive right to distribute copies of the Artwork, pursuant to 17 U.S.C. § 106(3).
30. Plaintiff holds the exclusive right to publicly display the Artwork, pursuant to 17 U.S.C. § 106(5).
31. The Defendant reproduced the Artwork in derogation of Plaintiff's exclusive rights under 17 U.S.C. § 106(1).
32. The Defendant created an unauthorized derivative of the Artwork in derogation of Plaintiff's exclusive rights under 17 U.S.C. § 106(2).
33. The Defendant distributed, and continues to distribute, an unauthorized reproduction of the Artwork on its packaging and marketing materials, in derogation of Plaintiff's exclusive rights under 17 U.S.C. § 106(3).
34. The Defendant publicly displayed, and continues to publicly display, unauthorized reproductions of the Artwork on its packaging and marketing materials, in derogation of Plaintiff's exclusive rights under 17 U.S.C. § 106(5).
35. The Defendant has willfully engaged in the copyright infringement of the Artwork.
36. The Defendant acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Plaintiff in an amount Plaintiff cannot ascertain, leaving Plaintiff with no adequate remedy at law.

37. Unless the Defendant is preliminarily and permanently enjoined from further infringement of the Artwork, Plaintiff will be irreparably harmed, and Plaintiff is thus entitled to preliminary and permanent injunctive relief against further infringement by the Defendant of the Artwork, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Plaintiff requests that this Court grant Plaintiff's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendant, and the Defendant's officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendant, from directly or indirectly infringing the Artwork by reproducing the Artwork, preparing derivative works based on the Artwork, distributing the Artwork to the public, and/or displaying the Artwork, or ordering, directing, participating in, or assisting in any such activity.
2. Direct the Defendant to preserve, retain, and deliver to Plaintiff in hard copies or electronic copies:
 - a. All evidence and documentation relating in any way to the Defendant's use of the Artwork, in any form, including, without limitation, all such evidence and documentation relating to the packaging and marketing materials;
 - b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom

the Defendant has communicated regarding the Defendant's use of the Artwork; and

- c. All financial evidence and documentation relating to the Defendant's use of the Artwork;
3. Award Plaintiff statutory damages for the willful infringement of the Artwork, pursuant to 17 U.S.C. § 504(c);
4. Award Plaintiff costs, disbursements, and attorneys' fees incurred by Plaintiff in bringing this action, pursuant to 17 U.S.C. § 505;
5. Award Plaintiff pre- and post-judgment interest in accordance with applicable law; and
6. Grant Plaintiff such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated this 3st day of June, 2011.

AIDENBAUM SCHLOFF AND BLOOM PLLC

/s/ David Gentile

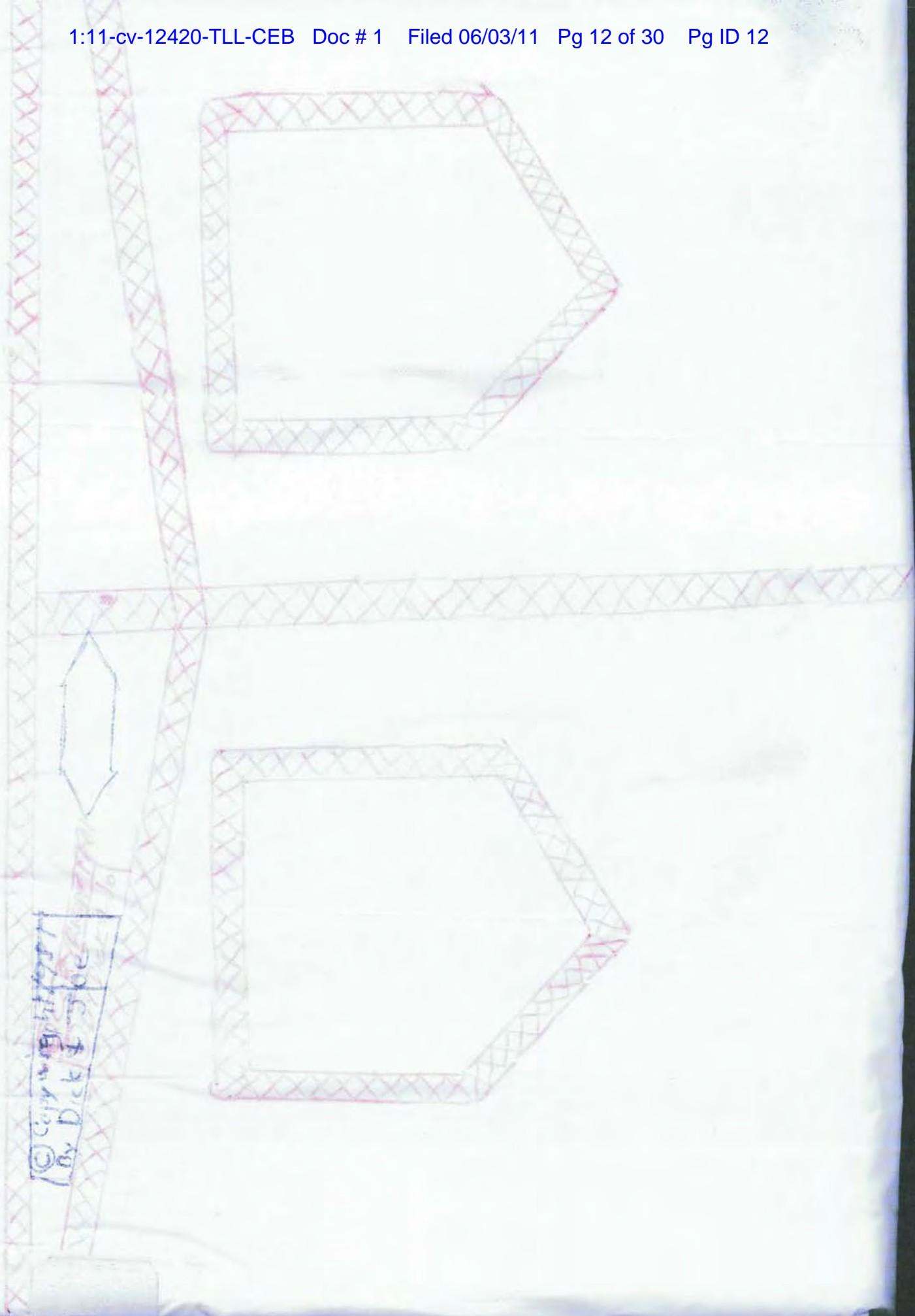
BY: _____

David Gentile
Attorneys for Plaintiff
6960 Orchard Lake Road, Suite 250
West Bloomfield, MI 48322
(248) 865-6500

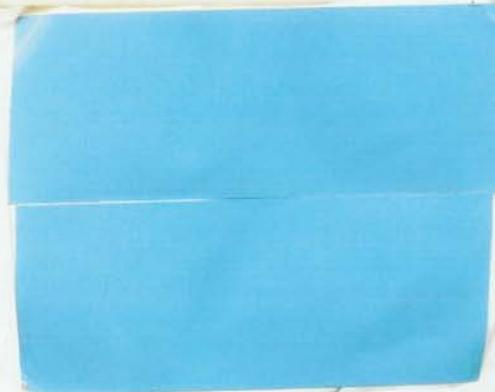
EXHIBIT 1

Au LIGHT PLASTIC TO
BE SIMULATED DENIM
WITH OR WITHOUT
POCKET AND/OR
STRINGS

2/2/81
Disclosed to unindicated by [redacted] 2/16/81



Red stitching on white diaper
or Red stitching on light
blue diaper.







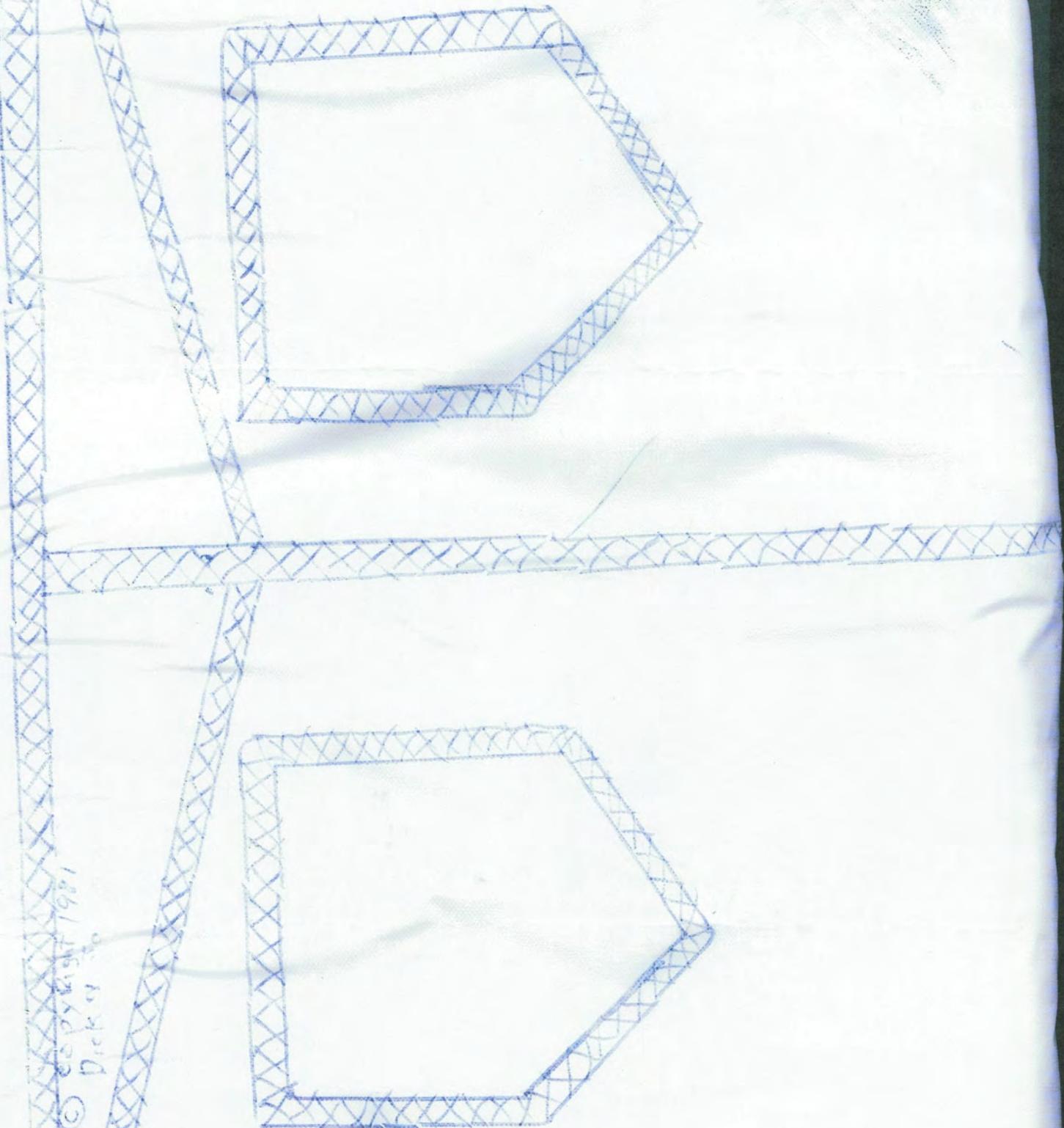


EXHIBIT 2

[Jump to Header](#)[Jump to Content](#)[Jump to Footer](#)

HUGGIES® Jeans Diapers

 [SHARE](#)

Check out our sizes:

- 316 - 28 lbs
- 422 - 37 lbs
- 5Over 27 lbs

[Click on sample for larger view](#)[Previous](#) [Next](#)[Read all 14 reviews](#)[Write a review](#)

Jeans have always been a Mommy fashion must-have, but now it's time for their little ones to steal the style. HUGGIES® gets fashion forward with new denim diaper design to help your baby stay trendy while keeping dry.

Very fashionable - for a limited time!

Denim has always been a summer style staple, and the HUGGIES® Jeans Diapers are no exception: this is a short-term offering to help little ones steal Mom's summer style. However, HUGGIES® Little Movers are on shelves before, during and after the Jeans products are available.

- A unique, fun and stylish way to make your little one the coolest and cutest around.
- Same proven leakage protection Moms have come to know and trust from HUGGIES® Little Movers Diapers.
- Shaped to move, featuring the same revolutionary design and technology as HUGGIES® Little Movers Diapers, allowing little ones to move, crawl and scoot.

[Buy Online](#) [Find a Store](#)

[Click on sample for larger view](#)[Previous](#) [Next](#)

Jeans have always been a Mommy fashion must-have, but now it's time for their little ones to steal the style. HUGGIES® gets fashion forward with new denim diaper design to help your baby stay trendy while keeping dry.

Very fashionable - for a limited time!

Denim has always been a summer style staple, and the HUGGIES® Jeans Diapers are no exception: this is a short-term offering to help little ones steal Mom's summer style. However, HUGGIES® Little Movers are on shelves before, during and after the Jeans products are available.

- A unique, fun and stylish way to make your little one the coolest and cutest around.
- Same proven leakage protection Moms have come to know and trust from HUGGIES® Little Movers Diapers.
- Shaped to move, featuring the same revolutionary design and technology as HUGGIES® Little Movers Diapers, allowing little ones to move, crawl and scoot.

[Buy Online](#) [Find a Store](#)[Click on sample for larger view](#)[Previous](#) [Next](#)



Jeans have always been a Mommy fashion must-have, but now it's time for their little ones to steal the style. HUGGIES® gets fashion forward with new denim diaper design to help your baby stay trendy while keeping dry.

Very fashionable - for a limited time!

Denim has always been a summer style staple, and the HUGGIES® Jeans Diapers are no exception: this is a short-term offering to help little ones steal Mom's summer style. However, HUGGIES® Little Movers are on shelves before, during and after the Jeans products are available.

- *A unique, fun and stylish way to make your little one the coolest and cutest around.*
- *Same proven leakage protection Moms have come to know and trust from HUGGIES® Little Movers Diapers.*
- *Shaped to move, featuring the same revolutionary design and technology as HUGGIES® Little Movers Diapers, allowing little ones to move, crawl and scoot.*

Buy Online Find a Store

- [Ratings & Reviews](#)
- [Buy Online](#)
- [Find a Store](#)
- [FAQs](#)

Summary of Customer Ratings & Reviews



Click on the Product Used (if applicable) or Ratings below to refine results

Filter By Rating

9 out of 14 (64%) customers
would recommend this product to
a friend.

Star Rating

Choose a sort order



Perfectly Cute

September 16, 2010

dEsIgNmAmA

Child's Gender: Girl **Child's Age:** 7-12 Months

We were using Huggies' Snug & Dry before. There was a promotional price on the Jeans Edition of Little Movers at our store so we tried them and absolutely love them!! They are so cute and perfect for those days when you just throw a shirt on your kid. You don't have to worry about pants if you don't want to because it is not an obvious diaper yet cute and stylish.... I wish it wasn't a Limited edition but just an everyday option!!

2 of 2 found this review helpful.

Was this review helpful to you? [Yes](#) | [No](#) ([Report as inappropriate](#))



[Post a Comment](#)

EXHIBIT 3

001

CERTIFICATE OF COPYRIGHT REGISTRATION

This certificate, issued under the seal of the Copyright Office in accordance with the provisions of section 410(a) of title 17, United States Code, attests that copyright registration has been made for the work identified below. The information in this certificate has been made a part of the Copyright Office records.

REGISTER OF COPYRIGHTS
United States of America

FORM VI

UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

VAU

28-689

VA

VAU

EFFECTIVE DATE OF REGISTRATION

13 FEB 1981

(Month)

(Day)

(Year)

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE CONTINUATION SHEET (FORM VAJCON)

TITLE OF THIS WORK:

1

DIAPER JEANS

NATURE OF THIS WORK: (See instructions)

Previous or Alternative Titles:

PUBLICATION AS A CONTRIBUTION: (If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared.)

Title of Collective Work: Vol..... No..... Date..... Pages.....

2

Author(s)

IMPORTANT: Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). If any part of this work was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for date blank.

NAME OF AUTHOR: Richard A. Pollick

Was this author's contribution to the work a "work made for hire"? Yes..... No..... X

DATES OF BIRTH AND DEATH
Born 1931 Died _____
(Year) (Year)

1

AUTHOR'S NATIONALITY OR DOMICILE

Citizen of U.S.A. } or { Domiciled in _____
(Name of Country) (Name of Country)WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK:
Anonymous? Yes..... No.....
Pseudonymous? Yes..... No.....

If the answer to either of these questions is "Yes," see detailed instructions attached.

AUTHOR OF: (Briefly describe nature of this author's contribution)
Entire Artwork

2

NAME OF AUTHOR:

Was this author's contribution to the work a "work made for hire"? Yes..... No.....

DATES OF BIRTH AND DEATH
Born Died
(Year) (Year)

AUTHOR'S NATIONALITY OR DOMICILE:

Citizen of _____ } or { Domiciled in _____
(Name of Country) (Name of Country)WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK:
Anonymous? Yes..... No.....
Pseudonymous? Yes..... No.....

If the answer to either of these questions is "Yes," see detailed instructions attached.

AUTHOR OF: (Briefly describe nature of this author's contribution)
Entire Artwork

3

NAME OF AUTHOR:

Was this author's contribution to the work a "work made for hire"? Yes..... No.....

DATES OF BIRTH AND DEATH
Born Died
(Year) (Year)

AUTHOR'S NATIONALITY OR DOMICILE:

Citizen of _____ } or { Domiciled in _____
(Name of Country) (Name of Country)WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK:
Anonymous? Yes..... No.....
Pseudonymous? Yes..... No.....

If the answer to either of these questions is "Yes," see detailed instructions attached.

AUTHOR OF: (Briefly describe nature of this author's contribution)
Entire Artwork

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED:

3
Creation
and
Publication

Year 1981

(This information must be given in all cases.)

DATE AND NATION OF FIRST PUBLICATION:

Date
(Month) (Day) (Year)
Nation
(Name of Country)

(Complete this block ONLY if this work has been published.)

4
Claimant(s)

NAME(S) AND ADDRESS(ES) OF COPYRIGHT CLAIMANT(S):

Richard A. Pollick and Joseph G. Pollick
doing business as Dick and Jo

TRANSFER: (If the copyright claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how claimant(s) obtained ownership of the copyright.)

By assignment

0

<i>Page # 2 of 9</i> VAn 28-689	EXAMINED BY: <i>CJ</i>	APPLICATION RECEIVED: JUL 20 1981	FO: COPYR OFFI US ONL
	CHECKED BY: _____	DEPOSIT RECEIVED: 20 JUL 1981	
	CORRESPONDENCE: <input checked="" type="checkbox"/> Yes	REMITTANCE NUMBER AND DATE: 14566 + 13 FEB 1981	
	DEPOSIT ACCOUNT Funds Used: <input type="checkbox"/>		

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED ADDITIONAL SPACE, USE CONTINUATION SHEET (FORM VA/CON)

PREVIOUS REGISTRATION: <ul style="list-style-type: none"> • Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office? Yes..... No. <input checked="" type="checkbox"/> X..... • If your answer is "Yes," why is another registration being sought? (Check appropriate box) <ul style="list-style-type: none"> <input type="checkbox"/> This is the first published edition of a work previously registered in unpublished form. <input type="checkbox"/> This is the first application submitted by this author as copyright claimant. <input type="checkbox"/> This is a changed version of the work, as shown by line 6 of the application. • If your answer is "Yes," give: Previous Registration Number..... Year of Registration..... 	Prev Regis tio
---	-------------------------------

COMPILED OR DERIVATIVE WORK: (See instructions) <p>PREEEXISTING MATERIAL: (Identify any preexisting work or works that this work is based on or incorporates.) <small>[Large rectangular box for handwriting]</small> </p> <p>MATERIAL ADDED TO THIS WORK: (Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.) <small>[Large rectangular box for handwriting]</small> </p>	Compl d Deriv Wo
---	-------------------------------------

DEPOSIT ACCOUNT: (If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.)	CORRESPONDENCE: (Give name and address to which correspondence about this application should be sent.)	Fee: Corres pon
Name: <i>Learman & McCulloch</i> Address: <i>5291 Colony Drive North</i> <small>(Appl)</small> City: <i>Saginaw</i> State: <i>Michigan</i> ZIP: <i>48603</i> <small>(City) (State) (ZIP)</small>		

CERTIFICATION: * I, the undersigned, hereby certify that I am the: (Check one) <input type="checkbox"/> author <input type="checkbox"/> other copyright claimant <input type="checkbox"/> owner of exclusive right(s) <input checked="" type="checkbox"/> authorized agent of: <i>Richard A. Pollock</i> <small>(Name of author or other copyright claimant, or owner of exclusive right(s))</small> of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.		Certifi Applic max sig
 Handwritten signature: (X) <i>John K. McCulloch</i> Typed or printed name: <i>John K. McCulloch</i> Date: <i>7-14-81</i>		

<i>Learman & McCulloch</i> <small>(Name)</small> <i>5291 Colony Drive North</i> <small>(Number, Street and Apartment Number)</small> <i>Saginaw, Michigan 48603</i> <small>(City) (State) (ZIP code)</small>	MAIL CERTIFICATE TO <small>(Certificate will be mailed in window envelope)</small>	Add For R e Certi
---	--	----------------------------------

001

Red stitching on white diaper
or Red stitching on light
blue diaper.

This is blue

EXHIBIT 4

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

RICHARD POLLICK,
an individual,

Plaintiff,
v.

Case No.:

Hon.

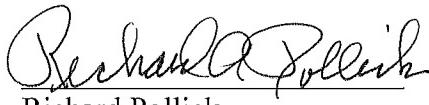
AFFIDAVIT OF RICHARD POLLICK

KIMBERLY-CLARK CORPORATION,
a Delaware corporation,

Richard Pollick, first being duly sworn, states as follows:

1. I am the owner of the copyrighted Artwork mentioned in the accompanying Complaint.
2. Prior to October, 1981, I submitted a copy of my Artwork to the Defendant.
3. In response to and after I made my submission, I received copies of the Defendant's submission policy.
4. The Defendant did not return the copy of my Artwork after I submitted the Artwork to it.

I have read the contents of this affidavit and state that the information contained therein is true to the best of my knowledge and that I could testify the truth of its contents if called to do so.


Richard Pollick

Dated: 3-7-2011

Subscribed and sworn to before me on March 7, 2011,

Christine M. Farrell
Notary Public, Saginaw County, Michigan, acting in Saginaw County, Michigan.
My commission expires on 2/14/2016



EXHIBIT 5



Mr. Richard Pollick
1905 Madison Ct.
Bay City, MI 48706



Mr. Richard Pollick
1905 Madison Ct.
Bay City, MI 48706

THIS AGREEMENT IS NOT ACCEPTABLE TO KIMBERLY-CLARK CORPORATION IF ALTERED IN ANY WAY

KIMBERLY-CLARK CORPORATION POLICY

for

REVIEWING PATENT APPLICATIONS

KIMBERLY-CLARK CORPORATION desires to be courteous and fair, and will make every effort to deal in good faith with all who submit what they consider to be new, patentable ideas, and to respect any valid patent rights they may have, but the Corporation must maintain its rights to any information or ideas which it or the general public now has the right to use.

KIMBERLY-CLARK CORPORATION does not permit any communication to be received in confidence by its employees, and no confidential relationship may be established with any submitter. Before representatives of KIMBERLY-CLARK CORPORATION will review a patent application the following statement, signed and dated, must be delivered to the Corporation.

In submitting to KIMBERLY-CLARK CORPORATION and to its employees, agents or attorneys, an application for patent entitled _____

heretofore filed by me in the United States Patent Office, and in consideration of the examination of said application for patent by KIMBERLY-CLARK CORPORATION, I hereby waive and release any and all claims against the said KIMBERLY-CLARK CORPORATION in respect of the subject matter of the said patent application, except claims based upon rights arising under the Patent Laws of the United States or claims based upon any future agreements made by me with the said KIMBERLY-CLARK CORPORATION.

Signature

Witness

Place

Date

THIS AGREEMENT IS NOT ACCEPTABLE TO KIMBERLY-CLARK CORPORATION IF ALTERED IN ANY WAY

KIMBERLY-CLARK CORPORATION POLICY

for

REVIEWING UNSOLICITED IDEAS

KIMBERLY-CLARK CORPORATION desires to be courteous and fair, and will make every effort to deal in good faith with all who submit what they consider to be new, patentable ideas*, and to respect any valid patent rights they may have, but the Corporation must maintain its rights to any information or ideas which it or the general public now has the right to use.

KIMBERLY-CLARK CORPORATION does not permit any communication to be received in confidence by its employees, and no confidential relationship may be established with any submitter. It is preferred that all such ideas be submitted in writing, signed and dated, but, in any event, the submission of any such idea must be accompanied by the following signed statement:

In submitting to KIMBERLY-CLARK CORPORATION and to its employees, agents or attorneys, information about _____

the substance of said information being set forth in a written and/or oral description made by me on _____, 19____, and in consideration of the examination and evaluation of said idea by KIMBERLY-CLARK CORPORATION, I hereby waive and release any and all claims against the said KIMBERLY-CLARK CORPORATION in respect of the subject matter of the said description, except claims based upon rights arising under the Patent Laws of the United States or claims based upon any future agreements made by me with the said KIMBERLY-CLARK CORPORATION.

Signature

Witness

Place

Date

*Kimberly-Clark Corporation regrets that it cannot accept for consideration any ideas or suggestions relating to the fields of advertising, sales promotion, artwork, product display, packaging design, or any suggested slogans, product names, or trademarks.